

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MEDIDEA, L.L.C.,

Plaintiff,

v.

BIOMET ORTHOPEDICS, LLC,

Defendant.

Civil Action No. _____

TRIAL BY JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, MEDIDEA, L.L.C., by its attorneys, hereby complains against Defendant BIOMET ORTHOPEDICS, LLC as follows:

I. PARTIES

1. Plaintiff, MEDIDEA, L.L.C. ("MEDIDEA") is a limited liability company organized and existing under the laws of the State of Michigan.

2. Defendant BIOMET ORTHOPEDICS, LLC ("BIOMET") is a limited liability company organized and existing under the laws of the State of Indiana with a place of business located at 56 E Bell Drive, Warsaw, Indiana 46581.

II. JURISDICTION AND VENUE

3. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* This Court has personal jurisdiction over BIOMET because it has committed acts giving rise to this action within Illinois and this judicial district and has established minimum contacts within the forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

4. Venue properly lies in the Northern District of Illinois pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because BIOMET has committed acts within this judicial district giving rise to this action, and BIOMET “resides” in this District subjecting it to personal jurisdiction. Venue is also appropriate because Defendants are doing business in this judicial district, including one or more of the infringing acts of offering for sale, selling, using infringing products, or providing service and support to BIOMET’s customers in this District, and Biomet does so through established distribution channels. BIOMET is also registered to do business in Illinois and has appointed Corporate Creations Network Inc. in Park Ridge, Illinois, as its registered agent.

III. CLAIMS

COUNT ONE – INFRINGEMENT OF U.S. PATENT NO. RE 44,803

5. MEDIDEA realleges and incorporates by reference the allegations set forth in Paragraphs 1-4 above as if fully set forth herein.

6. On March 11, 2014, United States Patent Number RE 44,803 (“the ‘803 Patent”) entitled “Anti-Impingement Femoral Prostheses” was duly and lawfully reissued by the United States Patent and Trademark Office (“USPTO”). The ‘803 Patent is a reissue of U.S. Pat. No. 7,985,261. A true and correct copy of the ‘803 Patent is attached as “Exhibit A.”

7. MEDIDEA is the assignee of the ‘803 Patent and holds the rights to sue and recover for past, present and future infringement thereof.

8. BIOMET has infringed and/or is still infringing the ‘803 Patent in Illinois, in this judicial district and elsewhere in the United States by, among other activities, making, using, importing, offering for sale, selling, providing, maintaining and/or supporting, without license or authority, products falling within the scope of one or more claims of the ‘803 Patent. Such

products include, without limitation, certain hip prostheses, such as, for example, the so-called “Arcos® Modular Femoral Revision System.”

9. The ‘803 Patent provides, among other things: an anti-impingement femoral prosthetic component, comprising (1) a stem having a distal portion and a proximal end which remains externally exposed subsequent to fixation, (2) a head having a center configured to co-act with a corresponding acetabular component, (3) a neck connecting the stem to the head, and (4) wherein the central region of the neck is oriented distally (curved downwardly), establishing a superior concave neck surface that reduces impingement of the central region of the neck on the acetabular component, thereby facilitating an enhanced range of motion in flexion/internal rotation and extension/external rotation.

10. BIOMET has committed acts of infringement which have caused damage to MEDIDEA. Under 35 U.S.C. § 284, MEDIDEA is entitled to recover from BIOMET the damages sustained by MEDIDEA as a result of the infringement of the ‘803 Patent. BIOMET’s infringement on MEDIDEA’s exclusive rights under the ‘803 Patent will continue to damage MEDIDEA causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

COUNT TWO – INFRINGEMENT OF U.S. PATENT NO. 6,200,350

11. MEDIDEA realleges and incorporates by reference the allegations set forth in Paragraphs 1-10 above as if fully set forth herein.

12. On June 28, 2005, the Reexamination Certificate (5127th) for United States Patent Number 6,200,350 (“the ‘350 Patent”) entitled “Anti-Impingement Femoral Prostheses” was duly and lawfully issued by the USPTO. A true and correct copy of the ‘350 Patent is attached as “Exhibit B.”

13. MEDIDEA is the assignee of the '350 Patent and holds the rights to sue and recover for past, present and future infringement thereof.

14. BIOMET has infringed and/or is still infringing the '350 Patent in Illinois, in this judicial district and elsewhere in the United States by, among other activities, making, using, importing, offering for sale, selling, providing, maintaining and/or supporting, without license or authority, products falling within the scope of one or more claims of the '350 Patent. Such products include, without limitation, certain hip prostheses, such as, for example, the so-called "Arcos® Modular Femoral Revision System."

15. The '350 Patent provides, among other things: an enhanced range-of-motion femoral prosthesis, comprising (1) a stem having a distal portion and a proximal end which remains externally exposed subsequent to fixation, (2) a head having a center configured to co-act with a corresponding acetabular component, (3) a neck connecting the head to the stem, and (4) wherein the central region of the neck is curved so as to reduce impingement of the neck on the acetabular component.

16. BIOMET has committed acts of infringement which have caused damage to MEDIDEA. Under 35 U.S.C. § 284, MEDIDEA is entitled to recover from BIOMET the damages sustained by MEDIDEA as a result of the infringement of the '350 Patent. BIOMET's infringement on MEDIDEA's exclusive rights under the '350 Patent will continue to damage MEDIDEA causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

COUNT THREE – INFRINGEMENT OF U.S. PATENT NO. 6,383,225

17. MEDIDEA realleges and incorporates by reference the allegations set forth in Paragraphs 1-16 above as if fully set forth herein.

18. On May 7, 2002, the Reexamination Certificate (5095th) for United States Patent Number 6,383,225 (“the ‘225 Patent”) entitled “Anti-Impingement Hip System” was duly and lawfully issued by the USPTO. A true and correct copy of the ‘225 Patent is attached as “Exhibit C.”

19. MEDIDEA is the assignee of the ‘225 Patent and holds the rights to sue and recover for past, present and future infringement thereof.

20. BIOMET has infringed and/or is still infringing the ‘225 Patent in Illinois, in this judicial district and elsewhere in the United States by, among other activities, making, using, importing, offering for sale, selling, providing, maintaining and/or supporting, without license or authority, products falling within the scope of one or more claims of the ‘225 Patent. Such products include, without limitation, certain hip prostheses, such as, for example, the so-called “Arcos® Modular Femoral Revision System.”

21. The ‘225 Patent provides, among other things: a set of enhanced range-of-motion femoral prostheses, comprising (1) a stem having a distal portion and a proximal end, (2) a head having a center configured to co-act with a corresponding acetabular component, (3) a neck connecting the head to the stem, (4) wherein the neck geometry is such so as to reduce impingement of the neck on the acetabular component, and (5) wherein the set includes femoral components with different head sizes, offsets and angles to accommodate differing patient physiologies.

22. BIOMET has committed acts of infringement which have caused damage to MEDIDEA. Under 35 U.S.C. § 284, MEDIDEA is entitled to recover from BIOMET the

damages sustained by MEDIDEA as a result of the infringement of the '225 Patent. BIOMET's infringement on MEDIDEA's exclusive rights under the '225 Patent will continue to damage MEDIDEA causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

IV. PRAYER FOR RELIEF

WHEREFORE, MEDIDEA respectfully requests that this Court enter judgment against Defendant BIOMET as follows:

- (a) for declaration that the '803, '350, and '225 Patents are good and valid in law;
- (b) for judgment that BIOMET has infringed and continues to infringe the '803, '350, and '225 Patents;
- (c) for a permanent injunction under 35 U.S.C. § 283 against BIOMET and its respective directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with BIOMET thereby enjoining any further acts of infringement;
- (d) for damages to be paid by BIOMET adequate to compensate MEDIDEA for its infringement, together with interest, costs and disbursements, and that damages be increased three times the amount found as justified under 35 U.S.C. 284;
- (e) for such further relief at law and in equity as the Court may deem just and proper.

V. DEMAND FOR JURY TRIAL

Pursuant to Federal Rules of Civil Procedure Rule 38, Plaintiff MEDIDEA hereby demands a jury trial on all issues triable by jury.

Dated: August 1, 2014

Respectfully submitted,

/s/ Jeffrey R. Moran

Jeffrey R. Moran

Attorneys for Plaintiff

MEDIDEA, L.L.C.

Joseph M. Vanek

Jeffrey R. Moran

VANEK, VICKERS & MASINI, P.C.

55 W. Monroe, Suite 3500

Chicago, IL 60603

(312) 224-1500 Telephone

(312) 224-1510 Facsimile

Email: jvanek@vaneklaw.com

Email: jmoran@vaneklaw.com

David Lesht

Martin Goering

THE LAW OFFICES OF

EUGENE M. CUMMINGS, P.C.

55 W Monroe, Suite 3500

Chicago, Illinois 60603

(312) 984-0144 Telephone

(312) 984-0146 Facsimile

E-mail: dlesht@emcpc.com

E-Mail: mgoering@emcpc.com